

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

*

*

v.

* **CRIMINAL NO: 16-CR-267-5-CCB**

RANDY BANKS,

*

Defendant

*

UPDATED STATUS REPORT

COMES NOW, Attorney Brian Sardelli, on behalf of Defendant RANDY BANKS, and respectfully files this Updated Status Report to the original Status Report (ECF#778) filed on May 15, 2018. Mr. Banks is updating the Court since he has now reviewed the Government Response to the Defense Motions (ECF# 779) and the May 24, 2018 Government letter to the Court (ECF# 788) stating which witnesses the Government intends to call at the motions hearing. In addition to the information provided in the original Status Report (ECF#778), Attorney Sardelli wishes to provide the following updates:

- 1) One of the incidents mentioned in the Defense motions will not be presented at trial by the Government. On page 123 of the Government response, the Government stated that it does not intend offer evidence related to the arrest of Mr. Banks on March 24, 2015. This should include the seizure of heroin, money, or anything else related to this incident. As long as this is the case, this issue is moot and the Defense withdraws their motion to suppress as to this incident.
- 2) Additionally, in a footnote on page 97 of their response, the Government states that it does not intend to offer any custodial statements that may have been made by Mr.

Banks. As long as this is the case, the issue is moot and the Defense withdraws their motion to suppress as to this issue.

- 3) The Defense is of the belief that there are no other relevant statements made by the Defendant (such as intercepted wiretaps calls or other recordings of the Defendant) that the Government may use at trial. If this is confirmed by the Government then the Defense will withdraw their motion to suppress statements.

- 4) Also, it is unclear if the statements of Mr. Banks are limited to certain jail calls.

The Defense again requests clarification from the Government on this issue. If all the calls have not been disclosed, the Defense again requests copies of these calls.

- 5) It appears that the only witness currently listed to testify for the Government related to the motions filed by Mr. Banks is Baltimore Police Department Officer Jason Dipaola. Per the Government, Officer Dipaola has declined to be interviewed by Defense. Therefore, Defense cannot anticipate the exact nature of his testimony, other than what was listed in the Government response. However, it is anticipated that his testimony will be insufficient to address all the motions filed by or adopted by Mr. Banks. The Defense reserves the right to argue these motions and to make the Government prove their case, as to the motions, with actual witness testimony and evidence. Specifically, the Defense anticipates that the witnesses listed by the Government are insufficient to address the two motions to suppress filed by Mr. Banks.

- 6) Although no final decision has been made, Mr. Banks reserves the right to testify for the limited purpose of these motions.

- 7) Several issues of disagreement exist between Mr. Banks and the Government related to the review of evidence and the interview of law enforcement witnesses may impact the upcoming motions hearing set for June 1, 2018. These issues will be discussed below and relate to the investigation and preparation for both the motions hearing and trial.
- 8) As of the date of this filing, only four items of the requested tangible evidence have been made available for Attorney Sardelli to review. They are two cellular telephones and two pieces of mail. As to the cellular telephones, the agent assisting Attorney Sardelli stated that policy would not allow her to open the evidence bags, turn on the phones, or allow them to be further examined. The agent also stated that the Government would confirm if those phones had been analyzed and if that material has been turned over to the Defense. As of the filing of this motion, Attorney Sardelli has received no such update from the Government or their agents. The Government has declined to provide Attorney Sardelli access to any other evidence in this case prior to the motions hearing. It is the understanding of Attorney Sardelli that the evidence will not be made available until after the motions, but before trial, and at one time for all counsel to review. This is not acceptable to the Defense and the Defense wishes to be heard on this issue at the June 1, 2018 motions hearing.
- 9) As to the law enforcement witness interview requests it is the understanding of Attorney Sardelli that the witnesses have declined to be interviewed or that the Government claims it is unable to locate certain law enforcement witnesses. However, the idea that the Government cannot locate law enforcement witnesses

such as Baltimore Police Officers and/or Federal Agents does not make any logical sense. If they are still on active duty, then they should be able to be located by the Government and made available for the Defense to interview. This is not acceptable to the Defense and the Defense wishes to be heard on this issue at the June 1, 2018 motions hearing.

10) Attorney Sardelli will continue to work in good faith to resolve these issues with the Government. However, as of the date of this filing Attorney Sardelli has not been able to resolve these issues with the Government. Because of the large and complex nature of this case, Attorney Sardelli believes the Government should work with the Defense to resolve the above issues and to work through the discovery in this case. The review of the provided paper and/or electronic discovery is a good start, but it also good practice to conduct witness interviews and to physically examine evidence. The interviewing of witnesses and the examination of evidence are basic ways to prepare for a motion and/or trial. Attorney Sardelli needs the above information to provide effective assistance of counsel to Mr. Banks. Attorney Sardelli will be addressing these issues with the Court at the June 1, 2018 Motions hearing.

11) As stated previously, Attorney Sardelli defers to the Court on the issue of whether motions should be heard in one or two groups.

DATED: May 29, 2018.

Respectfully submitted,

By: /s/ Brian Sardelli
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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of May 2018, I filed this document via ECF with the Clerk of the Court and therefore caused a copy to be served on all counsel of record in this case.

Respectfully submitted,

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